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## 5.6 - Hazards and Hazardous Materials

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### 5.6.1 - Introduction

This section describes existing hazardous materials and potential effects from project implementation on the site and its surrounding area. Descriptions and analysis in this section are based on information contained in the Environmental FirstSearch Report, the Hazardous Records Search, the Dredged Material Evaluation and supporting regulatory correspondence, the Evaluation of Surface Soils from the Mobile Home Park, and the Site Assessment Report, Marina Park, prepared by Leighton Consulting, Inc. These documents are included in this EIR as **Appendix G**.

The State of California defines hazardous materials as substances that are toxic, ignitable or flammable, reactive, water-reactive, and/or corrosive; show high acute or chronic toxicity; are carcinogenic (cause cancer); have bioaccumulative properties (accumulate in the body's tissues); or are persistent in the environment. The Environmental Protection Agency's (EPA) definition is based on similar characteristics. The primary concern associated with a hazardous materials release is the short- and long-term effects on the public and the environment from exposure to the hazardous material. The best way to reduce the possibility for a hazardous material release is through regulation governing the storage, use, manufacturing, and handling of hazardous materials. These regulations are typically issued by the United States Environmental Protection Agency (EPA), but various local agencies are charged with the responsibility of monitoring those facilities that use, store, transport, and dispose of hazardous materials to insure compliance with the federal guidelines or, if applicable, with more stringent state guidelines. As an example, the City of Newport Beach's General Plan Safety Element describes the City's responsibilities for hazardous material management.

### 5.6.2 - Regulatory Setting

Hazardous materials and hazardous wastes are subject to numerous federal, State, and local laws and regulations. The information in this section outlines some of the more common of those that might affect the proposed project.

**Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901-6987).** The goal of RCRA, a federal statute passed in 1976, is the protection of human health and the environment, the reduction of waste, the conservation of energy and natural resources, and the elimination of the generation of hazardous waste as expeditiously as possible. The Hazardous and Solid Waste Amendments of 1984 significantly expanded the scope of RCRA by adding new corrective action requirements, land disposal restrictions, and technical requirements. The corresponding regulations in 40 CFR 260-299 provide the general framework for managing hazardous waste, including requirements for entities that generate, store, transport, treat, and dispose of hazardous waste.

**Hazardous Waste Control Law (California Health and Safety Code, Chapter 6.5).** This statute is the basic hazardous waste law for California. The Hazardous Waste Control Law implements the federal RCRA cradle-to-grave waste management system in California. California hazardous waste regulations can be found in Title 22, Division 4.5, Environmental Health Standards for the

Management of Hazardous Wastes. The program is administered by the State of California Department of Toxic Substances Control (DTSC).

**Emergency Planning and Community Right-To-Know Act (42 U.S.C. 11001 et seq.).** Also known as Title III of the Superfund Amendments and Reauthorization Act (SARA), the Emergency Planning and Community Right-To-Know Act (EPCRA) was enacted by Congress as the national legislation on community safety. This law was designated to help local communities protect public health, safety, and the environment from chemical hazards. To implement EPCRA, Congress required each state to appoint a State Emergency Response Commission (SERC). The SERCs were required to divide their states into Emergency Planning Districts and to name a Local Emergency Planning Committee for each district. EPCRA provides requirements for emergency release notification, chemical inventory reporting, and toxic release inventories for facilities that handle chemicals.

**Hazardous Material Release Response Plans and Inventory Law (California Health and Safety Code, Chapter 6.95).** This state right-to-know law requires businesses to develop a Hazardous Material Management Plan or a business plan for hazardous materials emergencies if they handle more than 500 pounds, 55 gallons, or 200 cubic feet of hazardous materials. In addition, the business plan includes an inventory of all hazardous materials stored or handled at the facility above these thresholds. This law is designed to reduce the occurrence and severity of hazardous materials releases. The State has integrated the federal EPCRA reporting requirements into this law; once a facility is in compliance with the local administering agency requirements, submittals to other agencies are not required.

**Asbestos and Lead-Based Paint.** The EPA has classified asbestos-containing materials (ACMs) as a hazardous air pollutant, in accordance with Section 112 of the CAA. Surveys for ACMs are required by 40 CFR 61.145 prior to demolition of structures, and the SCAQMD regulates the actual handling of ACMs during construction and demolition through Rule 1403. Asbestos wastes must be contained and disposed of at a licensed landfill.

Lead-based paint is regulated in accordance with California Code of Regulations, Title 8 Section 1532.1 and Title 17 Sections 35022 and 35038, pertaining to construction sites and in the work place. In addition, 15 USC Section 2601, of the Federal Toxics Control Act, would apply to analysis of lead-based paint in on-site structures. Included in these regulations are requirements for facility surveys, notification of intent to disturb lead-based paint, control measures, removal measures, and handling and disposal techniques. Any proposed building demolition activities that include the removal and/or handling of lead-based paint would need to comply with these regulations.

**PCBs.** Any electrical equipment, including but not limited to transformers, that contains PCBs at concentrations greater than or equal to 50 ppm is considered PCB-contaminated electrical equipment. Any transformer that contains PCB concentrations greater than or equal to 500 ppm is considered a PCB transformer. Discovery of PCB-contaminated electrical equipment or PCB transformers

requires EPA notification, removal of such transformers, and sampling and characterization of adjacent soils.

### 5.6.3 - Existing Conditions

The majority of the existing site contains a variety of land uses (residential, recreational, public access, community service) that are not typical generators of hazardous wastes or materials. A small portion of the site (5,360 sq. ft) was used as a substation by Southern California Edison (from 1929 to 2008); hazardous materials associated with an electrical substation include PCB-containing oil and other hazardous substances associated with maintaining heavy equipment.

### Site Assessment

CEQA requires that the Lead Agency consult the lists of hazardous waste sites compiled by various state agencies, pursuant to Government Code Section 65962.5 (Public Resources Code Section 21092.6). Available Standard Environmental Record Sources from federal and state regulatory agency databases were reviewed to identify use, generation, storage, treatment, and/or disposal of hazardous materials and chemicals or release incidents of such materials that may have impacted the project site (*Environmental FirstSearch Report, Appendices G.1 and G.2*). The *Standard Environmental Record Sources* that were included in this review follow the ASTM standard E1527-05 guidelines. **Table 5.6-1** summarizes the findings of the regulatory database search. Because the property covers approximately three city blocks, the minimum search distance for each *Standard Environmental Record Source* listed above was increased by at least 0.25 mile.

**Table 5.6-1: Summary of Regulatory Database Search**

Database	Min. Search Distance (miles)	Map Finding Summary
National Priorities List (NPL)	1.25	0
Delisted NPL	0.75	0
Comprehensive Environmental Response, Compensation, and Liability Information Systems List (CERCLIS)	0.75	1
CERCLIS – No Further Remedial Action Planned (CERCLIS – NFRAP)	0.75	2
Resource and Recovery Information System – Permitted Treatment and Disposal Facilities (RCRA – TSD)	0.75	0
Corrective Action Report (RCRA COR)	1.25	0
RCRA Generators (LQG, SQG)	0.50	6
RCRA-NLR	0.50	1
Federal, State, Tribal IC/EC	0.50	0
Emergency Response Notification System (ERNS)	0.50	0
Tribal Lands	1.25	0
State Sites Database (CalSites)	1.25	4
State/Tribal VCP	0.75	0

Database	Min. Search Distance (miles)	Map Finding Summary
State/Tribal Brownfields	0.75	0
Spills-1990	0.50	3
Solid Waste Facilities/Landfill Sites (SWL)	0.50	1
Other	0.50	3
Permits	0.50	9
Active Underground Storage Tank Facilities/ Aboveground Storage Tank (UST/AST)	0.50	1
Leaking Underground Storage Tank (LUST)	0.75	11
Source: Environmental FirstSearch Report, West Balboa Boulevard, Newport Beach, CA 92663. July 7, 2008.		

The only LUST site less than 0.4 miles from the project site is a Mobil station located at 1500 Balboa Boulevard in Newport Beach. This facility reported a gasoline release in June 1986 that affected groundwater, but the case was closed in October 2000. None of the other facilities identified in the records search is closer than 0.15 mile (700 feet) from the project site, and all recorded spills were more than 0.25 mile from the site.

### Sediment Evaluation

NewFields, LLC., prepared a *Dredged Material Evaluation (Appendix G.3)* that reports the results of a chemical characterization of soils and sediments at the project site that would be dredged and potentially placed on ocean beaches. The project site was divided into Areas A, B, and C. Area A included the existing mobile home park, Area B included the beach above 0 feet mean lower low water (MLLW), and Area C included the channel area below 0 feet MLLW. Soils were tested for their consistency to be deposited onsite, used for beach replenishment, or disposed off-shore at EPA's LA-3 disposal site. All three test areas showed no detectable signs of pesticides, PCBs, tributyltin, TRPH, oil and grease, phthalates, or PAHs. Mercury was detected in the upper and lower Area C test cores, and further testing would be needed to characterize this material for disposal.

Bioaccumulation tests of the upper and lower Area C test cores found no mercury in the tissues of the biological organisms exposed to the lower layer of Area C, but did detect mercury at 0.01 to 0.013 mg/kg in the tissues of biological organisms exposed to the upper layer of Area C. Those concentrations are well below the U.S. Food and Drug Administration's limit of 1.0 mg/kg and the EPA risk-based guidance value of 0.3 mg/kg, indicating no potential restriction on the use in upland areas of materials excavated from Area C.

### Site Soil Investigations

Soil borings in the vicinity of the SCE substation (**Appendix G.6**) revealed some soil contamination within the facility footprint. Approximately 300 cubic yards of soil is contaminated by PCBs that would need to be excavated and disposed of by SCE at an approved facility.

Testing of soils at the existing mobile home park (**Appendix G.4**) found no evidence of elevated chemical constituents, and concluded that the upper five feet of soils (the area most likely to have been contaminated if contamination was present) would not qualify as hazardous waste under California law.

### **Demolition Debris**

Several phases of this project entail the removal of existing structures, some of which are several decades old. The mobile home park was first constructed in the late 1950s/early 1960s; the Girl Scout house was constructed around the same time, and thus materials now banned from use in construction may be present in some of the structures (lead based paint was used in buildings built before the 1960s; asbestos production was stopped in the early 1970s but used in construction into the early 1980s). During demolition, such materials as lead based paint, asbestos, and PCB-containing lighting ballasts may be encountered that would need to be removed and disposed of in accordance with applicable regulations. No testing of individual structures has been conducted, but testing would be required prior to issuance of construction permits.

### **5.6.4 - Thresholds of Significance**

According to the CEQA Guidelines' Appendix G Environmental Checklist, the following questions are analyzed and evaluated to determine whether hazards and hazardous materials impacts are significant environmental effects. Would the project:

- a.) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- b.) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving release of the hazardous materials into the environment?
- c.) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- d.) Be located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
- e.) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Three other CEQA Guidelines questions related to hazardous materials are not considered further in this EIR because they are not relevant to the proposed project or alternatives. Specifically, the project site is not located in or within two miles of an airport land-use plan area or an airport, it is not in the vicinity of a private airstrip, and there are no wildlands in the vicinity of the project site (see **Appendix A**, CEQA Checklist VII. Hazards and Hazardous Materials questions e. f. and h.).

### 5.6.5 - Project Impact Analysis and Mitigation Measures

This section discusses potential hazards and hazardous materials impacts associated with the proposed project and provides mitigation measures where necessary.

#### Routine Use

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**5.6-A: The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.**

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#### *Project-Specific Analysis*

Based on the Dredged Material Evaluation, some of the sediments that would be dredged for the marina basin contain detectable concentrations of mercury, but the concentrations are below the USFDA and EPA regulation limits. Nevertheless, approximately 3,000 cubic yards of dredged material with elevated mercury levels would be disposed of at an approved facility rather than being disposed of on beaches or on the project site. The material would be transported by truck, but as it would not constitute acutely or extremely hazardous waste, as those terms are defined by the California Department of Toxics Substances Control, its transport and disposal would not result in significant hazardous materials impacts.

Approximately 300 cubic yards of PCB-contaminated soil at the SCE substation site would be excavated and shipped (by SCE) to a facility approved for such material. The soil would be transported in covered haul trucks by a licensed contractor. Accordingly, the transport and disposal of PCB-contaminated soil from the SCE site would result in less than significant hazardous materials impacts.

Any hazardous materials such as lead-based paint, asbestos, lighting ballasts, etc. that are encountered during the demolition of other existing structures on the project site could expose workers, the public, and the environment to toxic materials. In the case of asbestos, lead-based paint, and PCBs from building demolition, based on the expected volume of debris and the types of materials typically contaminated with lead-based paints, asbestos, and PCB, the amount of contaminated debris is expected to be relatively small (one to two truckloads). Nevertheless, without appropriate controls the transport and disposal of hazardous wastes from building demolition could result in a potentially significant impact related to hazardous materials.

During operation, the proposed project would use various hazardous materials such as solvents, fertilizers, pesticides, and paints. None of these materials would be used or disposed of in reportable quantities, and their use and disposal would be subject to all applicable regulations. No impacts related to hazardous materials would occur as a result of project operation.

#### *Cumulative*

Construction activities could result in a significant hazardous materials impact related to the discovery, removal, and disposal of hazardous demolition debris, but the long-term activities of the

proposed project would not utilize or dispose of any hazardous materials of reportable quantities in its typical operations. Therefore, impacts related to construction activities would be cumulatively significant, but impacts from the operational use of hazardous materials would be less than significant.

### ***Mitigation Measures***

#### ***Project Specific***

**MM 5.6-A.1** Prior to demolition activities in Phase 1, the City of Newport Beach shall determine, through sampling and testing by a licensed laboratory, whether asbestos or lead-based paint materials, or PCBs are present within the existing onsite structures. If these materials are present, the City of Newport Beach shall require that these materials be handled in accordance with all applicable laws and regulations, and shall dispose of these materials in a landfill that accepts asbestos, PCB-containing materials, and lead-based paint.

This measure would ensure that hazardous materials in existing structures would be identified and removed by an approved contractor, and shipped to a facility approved for such material. The materials would be handled by licensed hazardous wastes haulers. With this mitigation measure, the transport and disposal of hazardous wastes from building demolition would result in less than significant hazardous materials impacts.

#### ***Cumulative***

No mitigation measures are required.

### ***Level of Significance After Mitigation***

#### ***Project Specific***

Less than significant.

#### ***Cumulative***

Less than significant.

### ***Accident Conditions***

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**5.6-B: The project may create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving a release of the hazardous materials into the environment.**

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### ***Project-Specific Analysis***

There is a potential for the existing onsite structures (i.e., Girl Scout house, community center, and mobile home structures) to contain asbestos and lead-based paint due to their age. Therefore, demolition activities have a potential to produce small amounts of hazardous wastes, which is considered a potentially significant impact. Mitigation Measure 5.6-A.1 requires that these wastes be removed and handled appropriately and transported and disposed of by licensed contractors at

licensed facilities. Accordingly, the potential impact of releases of hazardous materials due to demolition would be less than significant.

Project construction would also consist of extensive excavation of the marina. Work on the remaining areas would involve limited grading and trenching. These activities would involve typical construction methods and equipment onsite for a relatively limited time. Construction equipment would include diesel- and gasoline-powered engines. There would be a small risk of gasoline or diesel tank rupture in the event of an accident, but the risk of other spills would be negligible because the contractors would not be permitted to fuel or service vehicles on site. Furthermore, the limited duration of construction (less than one year) would reduce the risk of spills and upsets. Compliance with construction site safety regulations and use of best management practices would limit the risk of upset to less-than-significant levels.

Operation of the various Marina Park facilities would not typically use hazardous materials in ways that would involve the risk of upset and accident. City of Newport Beach Harbor regulations do not allow boat owners to use solvents or cleaners on the Newport Bay or at marinas. In addition, the proposed marina would not include maintenance areas, vehicle/boat wash areas, or fueling facilities. Therefore, the potential for the proposed project to experience a significant hazardous materials upset or accident condition is limited and the potential impact would be less than significant.

### ***Cumulative***

With mitigation, the impacts associated with project demolition activities would not result in significant hazardous materials impacts related to asbestos and lead-based paint. Therefore, the proposed project would not contribute to significant cumulative hazardous materials impacts related to asbestos and lead-based paint.

Impacts related to the accidental release or a hazardous materials incident during long-term activities are site specific and would not contribute to a greater cumulative impact associated with a release or incident. Therefore, the project's long-term contribution to potential cumulative hazardous materials impacts would be less than cumulatively significant.

### ***Mitigation Measures***

#### ***Project Specific***

Implementation of Mitigation Measure MM 5.6-A.1 is required.

#### ***Cumulative***

Implementation of Mitigation Measure MM 5.6-A.1 is required.

### ***Level of Significance After Mitigation***

#### ***Project Specific***

Less than significant.



*Cumulative*

Less than significant.

**Schools**

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**5.6-C: The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.**

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***Project-Specific Analysis***

The proposed project is located approximately one-quarter mile from Newport Elementary School. However, implementation of the proposed project would not result in emission of hazardous materials or wastes that would pose a serious health risk to students or school employees. There are no significant or extraordinary conditions associated with the project that would result in the release of hazardous or acutely hazardous materials, substances, or waste. Compliance with applicable state and federal regulations with regard to the use of hazardous materials would ensure that any remote impact potential would be less than significant.

***Cumulative***

No other sources of hazardous wastes or emissions are known in the vicinity of the Newport Elementary School. Implementation of the proposed project would not result in emission of hazardous materials or wastes that would pose a serious health risk to students or school employees. Therefore, implementation of the proposed project would result in no cumulative impact on schools due to releases of hazardous emissions.

***Mitigation Measures****Project Specific*

No mitigation measures are required.

*Cumulative*

No mitigation measures are required.

***Level of Significance After Mitigation****Project Specific*

Less than significant.

*Cumulative*

No impact.

**Hazardous Materials Site Listing**

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**5.6-D: The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment.**

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**Project-Specific Analysis**

Federal and state regulatory agency databases were reviewed to identify use, generation, storage, treatment, and/or disposal of hazardous materials and chemicals, or release incidents of such materials that may have adversely affected the project site. The database information indicated no evidence of listed hazardous materials site(s) within the project site; therefore, no impacts from listed hazardous material sites would occur.

In addition, construction activities would include dredging and excavation of soils that have detectable mercury and PCB concentrations. Those concentrations are below regulatory action limits, and the soils would be disposed of in licensed landfills. Therefore, the removal of those soils would constitute a less-than-significant impact.

**Cumulative**

The proposed project is not on a regulatory list on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Therefore, the project implementation would not contribute to potential cumulative impacts related to listed hazardous material sites within the City.

**Mitigation Measures***Project Specific*

No mitigation measures are required.

*Cumulative*

No mitigation measures are required.

**Level of Significance After Mitigation***Project Specific*

No impact.

*Cumulative*

No impact.

**Emergency Plans**

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**5.6-E: The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

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**Project-Specific Analysis**

The Safety Element of the City's General Plan recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. The Newport Beach Fire Department (NBFD) participates in county-wide mutual-aid response systems and maintains the City's Emergency Management Plan, which involves city, county, state, and federal agencies and offices. Implementation of city, county, and state emergency response and mutual aid plans enable

the community to avert or minimize impacts to a practical and feasible extent and allow restoration of the City's crucial services in a timely manner after an event.

Access to the Balboa Peninsula where the project site is located is primarily via Newport and Balboa Boulevards. The project site is relatively large; construction staging would occur on-site and would not constrict access or result in modifications to Balboa or Newport Boulevards except possibly during occasional situations where short-term construction work may be needed immediately adjacent to Balboa Boulevard. The proposed project would not alter emergency access to surrounding uses, and onsite emergency access would be provided via the onsite circulation system. The onsite circulation system has been designed to accommodate emergency vehicles (e.g., turning radii, etc), and implementation of the proposed project would improve emergency access to the site itself. Therefore, no impacts to the adopted emergency response plan or emergency evacuation plan would occur.

***Cumulative***

As stated above, implementation of the proposed project would not conflict with the City's existing emergency response or evacuation plan. Therefore, no cumulative adverse impacts related to this issue would occur as a result of implementation of the proposed project.

***Mitigation Measures******Project Specific***

No mitigation measures are required.

***Cumulative***

No mitigation measures are required.

***Level of Significance After Mitigation******Project Specific***

No impact.

***Cumulative***

No impact.